IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2827 OF 2005

Shri Vijay R. Mayekar .. ..Petitioner

Versus

M/s. Lupin Laboratories Ltd. .. ..Respondents

Mr.N.M.Ganguli for petitioner

Ms Sushma Joshi i/b M/s. Haresh Mehta and Co. for respondents

CORAM : P.V.KAKADE, J.

DATE : 7TH DECEMBER, 2005

P.C.:

1. Heard the learned counsel for both the parties. Perused the record.

2. The Petition under Article 226 of the Constitution of India is preferred in order to seek quashing and setting aside the impugned Order dated 9.3.2005 passed by Industrial Court in Revision Application (ULP) No.97 of 2004 dismissing the Revision and confirming the Order dated 26.3.2004 passed by Labour Court, Mumbai in Complaint (ULP) No.680 of 2001.

3. The Petitioner had filed the Complaint under

Section 26 read with Item 1(a) (b) (c) and (d) of Schedule-IV of MRTU & PULP Act, 1971 wherein he had contended that he had joined the service of the Respondent-company in the year 1985 as Administrative Assistant and was permanent employee. However, two charge-sheets were served upon him in the year 1990 with malafide intention and after the enquiry on 25.9.1991, the Inquiry Officer held him guilty and consequently, services were terminated w.e.f. 26.7.1991. For the same set of facts he was also prosecuted in the criminal court in Criminal Case No.513-P of 1991. After the trial he was acquitted by 21st Metropolitan Magistrate Court, Bandra on 13.9.2001 from charges for offence punishable under Section 408 of I.P.C. Thereafter on 11.10.2001 he had sent letter to the company and another letter on 14.10.2001 through his advocate claiming reinstatement with back wages. However, no heed was paid and therefore, Complaint came to be filed, alleging that the Respondents were engaged in unfair labour practices and consequently relief of reinstatement with back wages was prayed for.

4. The Labour Court Judge after adjudicating the enquiry came to the conclusion that no unfair labour

practice was resorted to by the respondents and findings of the Inquiry Officer were also held not to be perverse and as such Petitioner was held not entitled for relief of reinstatement and other consequential benefits. Hence the Revision Application (ULP) No.97 of 2004 was preferred by the petitioner against the said order. The Member Industrial Court, Mumbai after hearing the parties confirmed the order of the Labour Court and dismissed the Revision Application. Hence the present petition.

5. Mr.Ganguli, the learned counsel for the petitioner, vehemently urged that the findings recorded by both the courts below were perverse in the sense that though the Criminal Court had acquitted the Petitioner on 13.9.2001 from charges for offence punishable under Section 408 of I.P.C., the dismissal from the service was based upon the Report of the Inquiry Officer holding him in guilty for committing misconduct of (1) theft, fraud and dishonesty in connection with the employers business and property and (2) Commission of act subversive of discipline or good behaviour on the premises of the establishment. It was further submitted that offences of theft and fraud cannot go together and

therefore, the Inquiry Officer's report itself was perverse, which aspect was not appreciated by both the courts below. It was further submitted that the Criminal Court had acquitted the Petitioner honourably and therefore, he is entitled for reinstatement in service.

. However, perusal of the judgment of the Criminal Court shows that the petitioner was given benefit of doubt and hence was acquitted of the charge of offence punishable under Section 408 of I.P.C. Apart from this aspect, on perusal of the judgments of the Courts below, it is apparent that they have appreciated the entire evidence on record vis-a-vis the Inquiry Officer's Report which is based on available evidence, and under the circumstances I do not see any perversity in judgments of both the courts below and therefore, I am of the view that there is no necessity for interfering in the matter in Writ Jurisdiction as no illegality is committed by the Member, Industrial Court while dismissing the Revision Application.

6. In the result the Petition stands dismissed in limine.